

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
AIRPEAK Communications, LLC	)	WT Docket No. 02-55
800 MHz ESMR Election	)	

To: Chief, Wireless Telecommunications Bureau

**REQUEST FOR WAIVER**

AIRPEAK Communications, LLC (“AIRPEAK” or “Company”), by its attorneys and pursuant to Section 1.925 of the Federal Communications Commission (“FCC” or “Commission”) rules and regulations, respectfully requests a waiver to obtain an EA-wide license in the 800 MHz ESMR band for each of the channels authorized under the site-based stations identified on Attachment A. The grant of this request would be consistent with the Commission’s recent Memorandum Opinion and Order in WT 02-55<sup>1</sup> in which the FCC invited AIRPEAK to submit the showing provided herein.

The MO&O addressed a number of matters relating to the Commission’s decisions involving the reconfiguration of the 800 MHz band. Among the issues resolved in the MO&O was AIRPEAK’s request that certain site-based stations associated with ESMR networks be permitted to relocate to the ESMR band on an EA-wide, incumbent-free basis, rather than retaining rights only to operate within their existing 40 dBuV/m coverage contour.

---

<sup>1</sup> Improving Public Safety in the 800 MHz Band, WT Docket No. 02-55, *Memorandum Opinion & Order*, FCC 05-174, 36 CR 1105 (Oct. 5, 2005 (“MO&O”))

The Company had filed both a Petition for Reconsideration and a Request for Waiver in respect to this issue.<sup>2</sup> In both, AIRPEAK proposed that a site-based license eligible for relocation to the ESMR band should be converted to an EA-wide license if the 22 dBu/Vm contour of the station covered at least fifty percent (50%) of the population within the EA. AIRPEAK argued that the proposal was consistent with Section 90.685(b) of the FCC Rules since one-third population coverage is the first benchmark for demonstrating satisfactory spectrum utilization throughout a geographic area and two-thirds coverage is considered conclusive evidence that the spectrum is being used productively.

In the MO&O, the FCC determined not to grant reconsideration of this issue. However, it allowed AIRPEAK (and Airtel Wireless, LLC) to obtain an EA-wide license in the ESMR band upon a demonstration that the 40 dBu/Vm contour of the license covered at least fifty percent (50%) of the population within the EA.<sup>3</sup>

Attachment A identifies AIRPEAK's eligible site-based licenses that meet the coverage test for waiver relief defined in the MO&O. The attachment includes coverage maps demonstrating that the 40 dBu/Vm coverage contour of each station provides coverage to at least fifty percent (50%) of the EA population. Thus, these stations satisfy the waiver criteria set out in the MO&O.

The Commission already has determined that waiver relief will serve the public interest under the conditions defined in the MO&O.<sup>4</sup> The agency's conclusion is correct. Approval of this request will allow AIRPEAK increased flexibility in deploying these channels, primarily in rural markets that traditionally have been underserved. It will avoid the situation wherein the

---

<sup>2</sup> See Petition for Reconsideration, filed Mar. 10, 2005, by AIRPEAK Communications, LLC; AIRPEAK Communications, LLC 800 MHz ESMR Election, Request for Waiver, filed Mar. 17, 2005.

<sup>3</sup> MO&O at ¶ 18.

<sup>4</sup> *Id.*

“white space” outside the service contour lies fallow because it does not independently provide sufficient geography and/or population to warrant build-out investment. It also will simplify the FCC’s licensing processes.

For the reasons described above, AIRPEAK respectfully requests approval of the instant waiver request.

Respectfully submitted,

AIRPEAK Communications, LLC

By:

A handwritten signature in black ink, appearing to read "Elizabeth R. Sachs", written over a horizontal line.

Elizabeth R. Sachs

Its Counsel

Lukas, Nace, Gutierrez & Sachs, Chartered

1650 Tysons Boulevard, Suite 1500

McLean, VA 22102

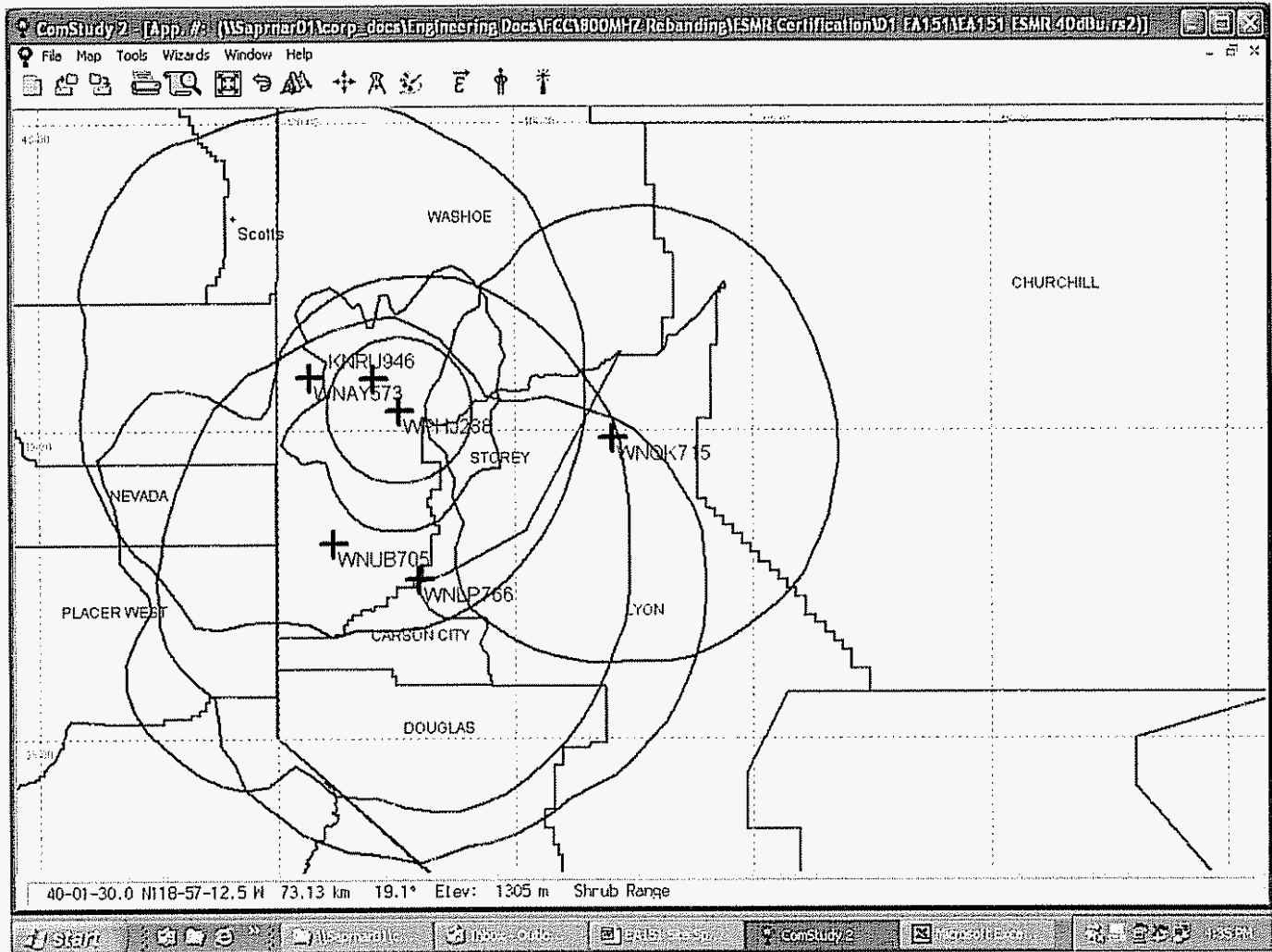
(703) 584-8678

February 6, 2006

Attachment

## **ATTACHMENT A**

# EA151 Reno Nevada Site Specific 40dBu



## AIRPEAK Site Specific, EA151 Washoe County

<u>Callsign</u>	<u>Location</u>	Population <u>40 dbu</u>	25 khz Channels
WPXU604	SUN VALLEY	332,004	30
WPQK363	Incline Village	136,989	20
KNRU946	SUN VALLEY	315,863	5
WNNH844	Peavine	437,484	7
WPHJ288	55 E Nugget	273,696	5
WPHJ293	RENO	368,200	3
WNAY573	RENO	398,985	12
WNUB705	RENO	469,298	5
WPQK364	RENO	327,544	20
WPQK365	RENO	398,985	20
WPQK366	Wadsworth	353,329	20
WPQK370	RENO	445,556	20
WPQE923	RENO	229,059	20
WPQE561	RENO	246,492	15
WPQE566	RENO	288,682	15
WPQE570	RENO	229,059	15
WPQE575	RENO	282,595	15
WPQE576	RENO	205,563	15
WPQE903	RENO	246,492	15
WPQE918	RENO	282,595	15
WPQE920	RENO	294,912	15
WPQE928	RENO	282,595	15
WPQE916	RENO	361,842	10
WNXE843	RENO	419,642	5

## AIRPEAK Site Specific, EA151 Carson County

<u>Callsign</u>	<u>Location</u>	Population <u>22 dbu</u>	Population <u>40 dbu</u>	25 khz Channels
WPQE901	CARSON CITY	187,540	87,573	15
WPQZ716	CARSON CITY	515,087	334,750	15
WPQE915	CARSON CITY	187,540	87,573	15
WPQE578	CARSON CITY	515,087	334,750	15

## AIRPEAK Site Specific, EA151 Storey County

<u>Callsign</u>	<u>Location</u>	Population <u>22 dbu</u>	Population <u>40 dbu</u>	25 khz Channels
WNLP 766	CARSON CITY	560,813	493,201	10
WPQK368	CARSON CITY	560,813	493,201	20

## AIRPEAK Site Specific, EA151 Douglas County

<u>Callsign</u>	<u>Location</u>	Population		25 khz Channels
		<u>22 dbu</u>	<u>40 dbu</u>	
WPXY407	STATELINE	175,220	70,417	30
WPQK371	STATELINE	160,297	66,153	20

## AIRPEAK Site Specific, EA151 Lyon County

<u>Callsign</u>	<u>Location</u>	Population <u>22 dbu</u>	Population <u>40 dbu</u>	25 khz Channels
WNQK715	FERNLEY	450,580	33,269	1
WPQK367	Silver Springs	448,021	30,220	20
WPQE914	Silver Springs	448,021	30,220	15
WPQE912	FERNLEY	448,021	30,220	15

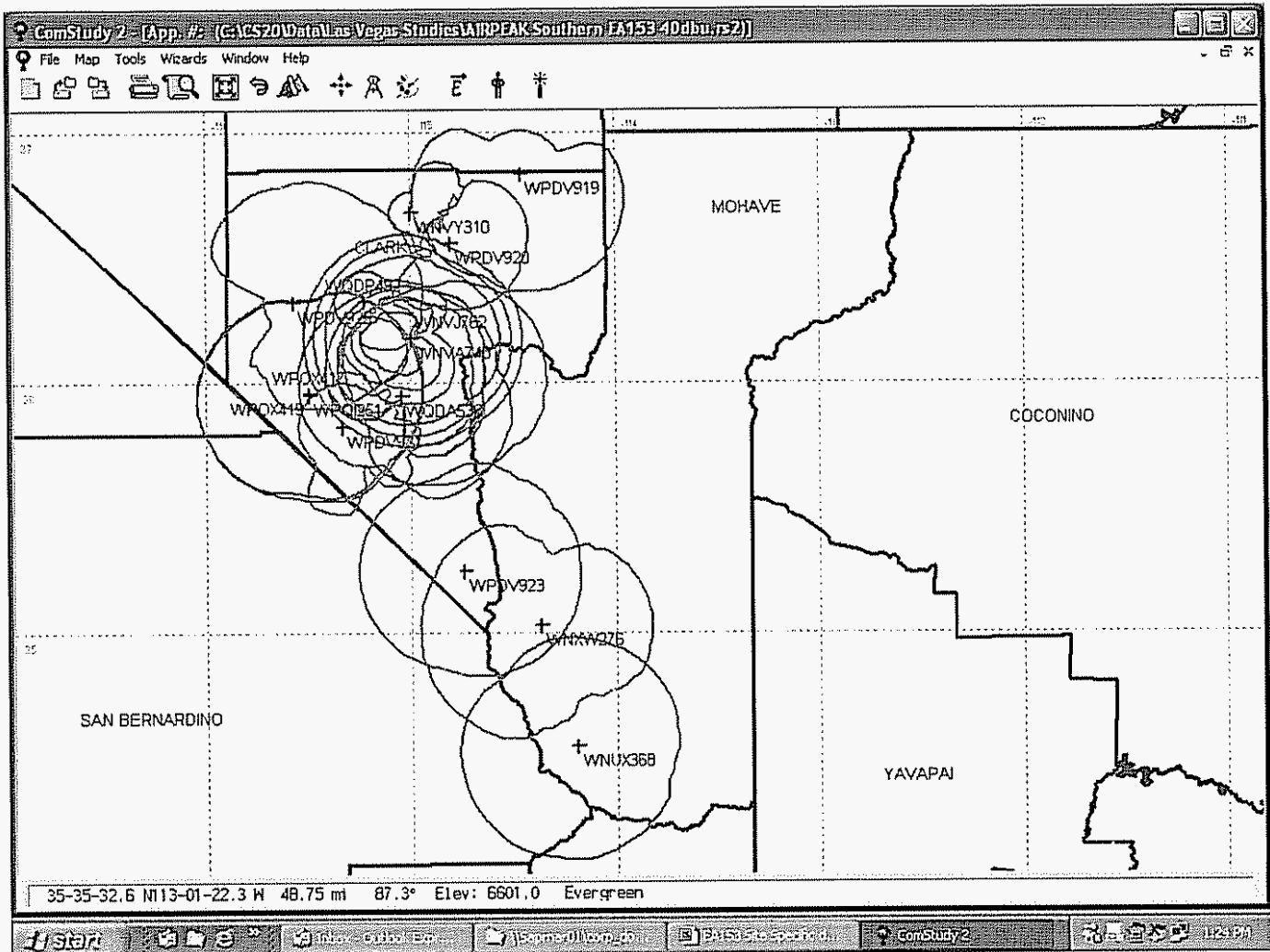
## AIRPEAK Site Specific, EA151 Churchill County

<u>Callsign</u>	<u>Location</u>	Population <u>22 dbu</u>	Population <u>40 dbu</u>	25 khz Channels
WPQK372	FALLON	24,832	23,019	20
WNSC847	FALLON	24,832	23,019	5

# AIRPEAK Site Specific, EA151 Lassen County

<u>Callsign</u>	<u>Location</u>	Population <u>22 dbu</u>	Population <u>40 dbu</u>	25 khz Channels
WPFV934	SUSANVILLE	44,832	23,746	5

# Southern EA153 Las Vegas Nevada 40 dBu contours



Las Vegas Site Specific Details

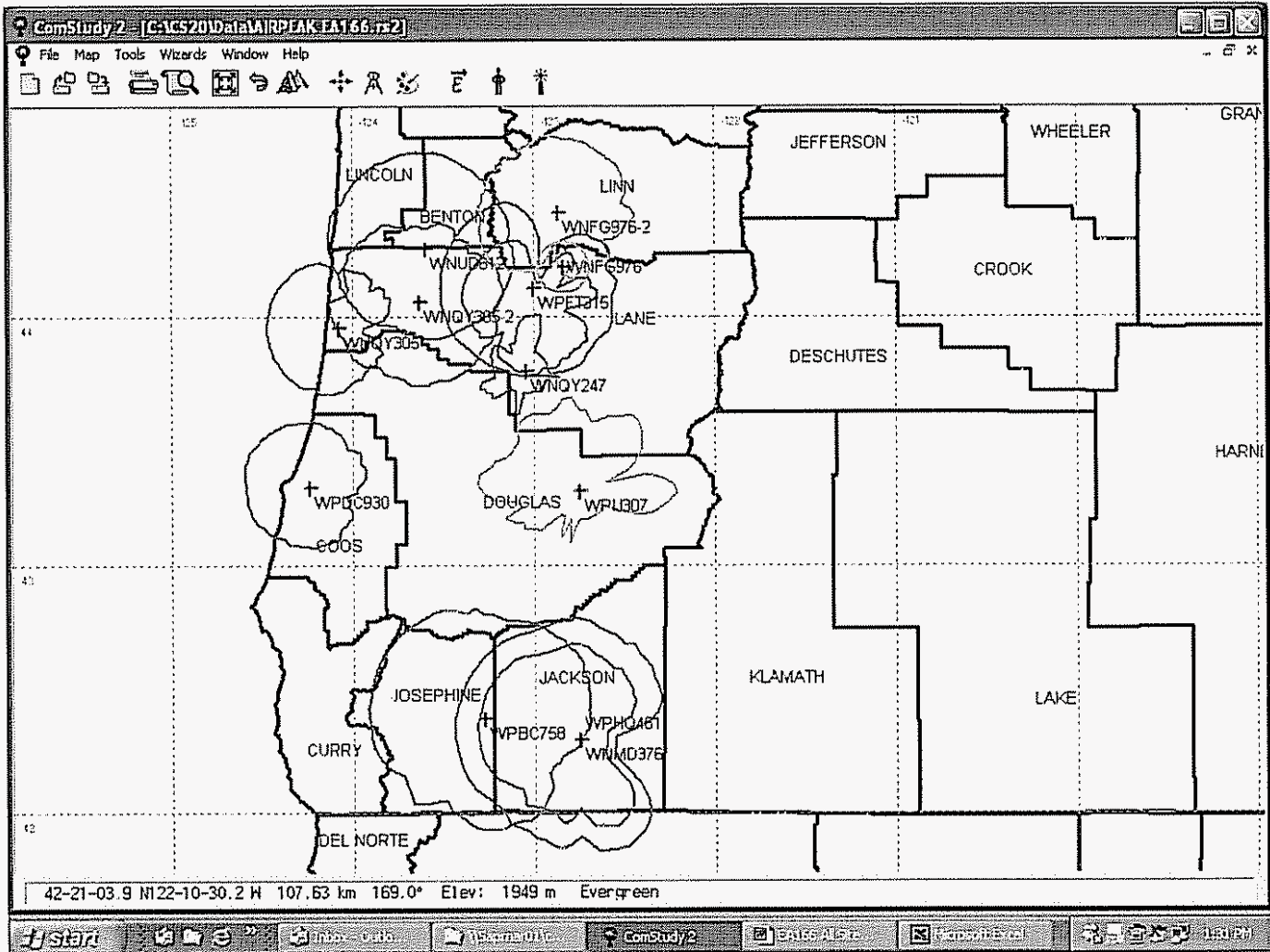
CallSign	Site Location	City	ST	County	AMSL (meters)	HAAT meters	Ant Hgt meters	ERP	Latitude	Longitude
Many	Sunrise	Las Vegas	NV	Clark	1234	701.0	18	125	36-10-46.9	114-59-54
WPDV925	Angel Peak	Las Vegas	NV	Clark	2701	732.0	55	200	36-19-7.9	115-34-30
WPDV920	Arrow Canyon	Glendale	NV	Clark	855	263.0	19	200	36-33-28.9	114-47-58
WPDV923	8mi NE Jct US95 & SR77	Laughlin	NV	Clark	1464	687.0	6	200	35-14-55	114-44-36.9
WPDV919	NE 1/4 of Sec 7	Las Vegas	NV	Clark	457	-79.0	35	1000	36-49-54.9	114-27-37.9
WPDV921	2.5mi SW	Jean	NV	Clark	863	-131.0	30	1000	35-49-29.9	115-20-3
WNXW276	Oatman Mt	Oatman	AZ	Mohave	1317	556.0	24	350	35-1-58	114-21-59.8
WNUX368	Crossman	Jake Havasu City	AZ	Mohave	1317	714.0	24	200	34-32-54	114-11-39.8
WQDB949	Tropicanna Hotel	Las Vegas	NV	Clark	649	39	70.1	600	36-05-59.9	115-10-17
WQDB950	Fitzgeralds Hotel	Las Vegas	NV	Clark	613	89	122.0	600	36-10-9.9	115-8-34
WQDA536	Arden Tower	Las Vegas	NV	Clark	1310	530.3	11.0	250	35-56-45	115-2-40
WQDB949	Bank Of America	Las Vegas	NV	Clark	614	22.1	76.0	50	36-10-02	115-8-38
WQDU356	Boulder City VOR	Boulder City	NV	Clark	1105	484	4.9	300	35-59-46	114-51-47
Pending	Las Vegas Hilton	Las Vegas	NV	Clark	623	71	102.0	600	36-08-04	115-9-16
Pending	Decatur	North Las Vegas	NV	Clark	700	-68	27.4	300	36-17-06	115-12-20.6
WQDP492	Detension Basin	Las Vegas	NV	Clark	729	-149.0	30.4	250	36-19-40.28	115-13-18.42
WQDM842	Seastrand Park	North Las Vegas	NV	Clark	656	-80.8	27.4	300	36-16-33.85	115-09-51.5
WQDB948	Southern Hills Hospital	Las Vegas	NV	Clark	786	-86.4	27.4	350	36-04-22	115-17-42.7
WQDM841	Mountain View Hospital	Las Vegas	NV	Clark	710	-72.5	21.8	250	36-12-57	115-15-3
WQED951	Stratosphere Hotel	Las Vegas	NV	Clark	620	232.0	267	225	36-8-52.9	115-9-16
WPQI251	Potosi	Las Vegas	NV	Clark	2499	1098	24	75	35-57-4	115-29-36
KNNG473	Ballys	Las Vegas	NV	Clark	646	614	119	50	36-6-26.9	115-10-30
WNCS310	Black	Las Vegas	NV	Clark	1017	381	16	160	36-0-29.9	115-0-23

**AIRPEAK Las Vegas Site Specific over 50% pop coverage**

EA	Freq	Call Sign	Pops in 40 dBU Contour at Licensed ERP	40 dbu Percentage of Population Covered	Total Pops in EA
153	851.4875	WNVJ762	1,340,941	78%	1,709,797
153	851.4875	WPFU355	1,340,941	78%	1,709,797
153	851.5875	WNVY310	1,340,941	78%	1,709,797
153	852.2375	KNNG473	1,256,117	73%	1,709,797
153	852.5375	WPEJ290	1,114,758	65%	1,709,797
153	852.6875	WNMJ676	1,341,531	78%	1,709,797
153	852.6875	WNVA748	1,341,531	78%	1,709,797
153	852.9875	WNMJ676	1,342,157	78%	1,709,797
153	852.9875	WNVA740	1,342,157	78%	1,709,797
153	853.3125	WNMJ676	1,428,840	84%	1,709,797
153	853.3125	WPDV918	1,428,840	84%	1,709,797
153	853.3125	WPDV919	1,428,840	84%	1,709,797
153	853.3125	WPDV920	1,428,840	84%	1,709,797
153	853.3125	WPDV921	1,428,840	84%	1,709,797
153	853.3125	WPDV923	1,428,840	84%	1,709,797
153	853.3125	WPDV925	1,428,840	84%	1,709,797
153	853.8375	WNMJ676	1,341,826	78%	1,709,797
153	854.0625	WPEJ290	1,114,758	65%	1,709,797
153	854.5375	WPCQ306	837,930	49%	1,709,797
153	855.7875	WNCS310	1,338,149	78%	1,709,797
153	856.0625	WNMJ676	1,341,790	78%	1,709,797
153	856.1375	WNMJ676	1,341,790	78%	1,709,797
153	856.3625	WPOX417	1,309,482	77%	1,709,797
153	856.6375	WPQI251	1,314,269	77%	1,709,797
153	856.8625	WPRR969	1,340,792	78%	1,709,797
153	857.0625	WNMJ676	1,341,790	78%	1,709,797
153	857.1375	WNMJ676	1,428,840	84%	1,709,797
153	857.1375	WPDV918	1,428,840	84%	1,709,797
153	857.1375	WPDV919	1,428,840	84%	1,709,797
153	857.1375	WPDV920	1,428,840	84%	1,709,797
153	857.1375	WPDV921	1,428,840	84%	1,709,797
153	857.1375	WPDV923	1,428,840	84%	1,709,797
153	857.1375	WPDV925	1,428,840	84%	1,709,797
153	857.3125	WPDV918	1,416,129	83%	1,709,797
153	857.3125	WPDV920	1,416,129	83%	1,709,797
153	857.3125	WPDV923	1,416,129	83%	1,709,797

EA	Freq	Call Sign	Pops in 40 dBu Contour at Licensed ERP	40 dbu Percentage of Population Covered	Total Pops in EA
153	857.3625	WPOX417	1,309,482	77%	1,709,797
153	857.6375	WPQI251	1,314,269	77%	1,709,797
153	858.0625	WNMJ676	1,341,790	78%	1,709,797
153	858.1375	WNMJ676	1,428,840	84%	1,709,797
153	858.1375	WPDV918	1,428,840	84%	1,709,797
153	858.1375	WPDV919	1,428,840	84%	1,709,797
153	858.1375	WPDV920	1,428,840	84%	1,709,797
153	858.1375	WPDV921	1,428,840	84%	1,709,797
153	858.1375	WPDV923	1,428,840	84%	1,709,797
153	858.1375	WPDV925	1,428,840	84%	1,709,797
153	858.3625	WPOX419	1,309,482	77%	1,709,797
153	858.6375	WPQI251	1,314,269	77%	1,709,797
153	859.0625	WNMJ676	1,341,790	78%	1,709,797
153	859.1375	WNMJ676	1,428,840	84%	1,709,797
153	859.1375	WPDV918	1,428,840	84%	1,709,797
153	859.1375	WPDV919	1,428,840	84%	1,709,797
153	859.1375	WPDV920	1,428,840	84%	1,709,797
153	859.1375	WPDV921	1,428,840	84%	1,709,797
153	859.1375	WPDV923	1,428,840	84%	1,709,797
153	859.1375	WPDV925	1,428,840	84%	1,709,797
153	859.3625	WPOX419	1,309,482	77%	1,709,797
153	859.6375	WPQI251	1,314,269	77%	1,709,797
153	859.7875	KNNH532	1,142,505	67%	1,709,797
153	860.0625	WNMJ676	1,341,790	78%	1,709,797
153	860.1375	WNMJ676	1,428,840	84%	1,709,797
153	860.1375	WPDV918	1,428,840	84%	1,709,797
153	860.1375	WPDV919	1,428,840	84%	1,709,797
153	860.1375	WPDV920	1,428,840	84%	1,709,797
153	860.1375	WPDV921	1,428,840	84%	1,709,797
153	860.1375	WPDV923	1,428,840	84%	1,709,797
153	860.1375	WPDV925	1,428,840	84%	1,709,797
153	860.3625	WPOX419	1,309,482	77%	1,709,797
153	860.6375	WPQI251	1,314,269	77%	1,709,797

# EA166 Eugene Oregon 40 dbu contours



# AIRPEAK Site Specific, EA 166 Lane County

Population      Population

<u># of Channels</u>	<u>Callsign</u>	<u>Location</u>	<u>22 dbu</u>	<u>40 dbu</u>
8	WNFG976	Springfield	269,668	3,186
1	WPFT315	Eugene	457,973	306,378
3	WNQY247	Cottage Grove	273,045	25,155
5	WPGF851	Springfield	329,460	293,129
10	KNIY817	Eugene	329,460	293,129
5	WNUD612	Junction City	518,025	68,818
3	WNQY305	Florence	29,717	18,991

## AIRPEAK Site Specific, EA 166 Linn County

			Population	Population
<u># of Channels</u>	<u>Callsign</u>	<u>Location</u>	<u>22 dbu</u>	<u>40 dbu</u>
6	WNFG976	Brownsville	601,316	102,546

# AIRPEAK Site Specific, EA 166 Jackson County

			Population	Population
<u># of Channels</u>	<u>Callsign</u>	<u>Location</u>	<u>22 dbu</u>	<u>40 dbu</u>
1	WPHQ461	Medford	267,465	184,148
1	WPIH908	Medford	267,465	184,148
1	WPIH909	Medford	267,465	184,148
1	WPIH910	Medford	267,465	184,148
1	WPIJ307	Medford	94,458	4,777
5	WNMD376	Medford	288,028	234,102

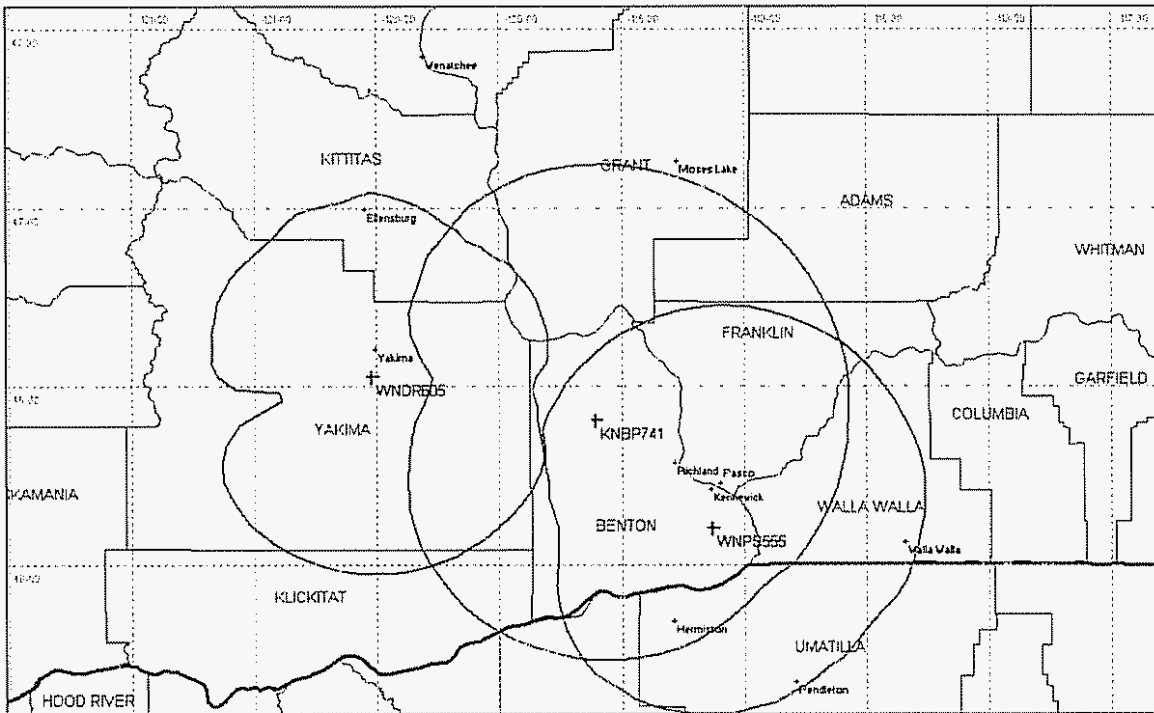
## AIRPEAK Site Specific, EA 166 Josephine County

			Population	Population
<u># of Channels</u>	<u>Callsign</u>	<u>Location</u>	<u>22 dbu</u>	<u>40 dbu</u>
5	WPBC758	Grants Pass	283,017	224,230

## AIRPEAK Site Specific, EA 166 Coos County

			Population	Population
<u># of Channels</u>	<u>Callsign</u>	<u>Location</u>	<u>22 dbu</u>	<u>40 dbu</u>
860.6875	WPDC930	Coos Bay	69,082	53,024

## EA169 Kennewick 40 dbu Contours



AIRPEAK currently covers 467,007 pops (69%) within EA169 counties.

County	2000 Census population
Adams WA	16428
Benton WA	142475
Chelan WA	66616
Douglas WA	32603
Franklin WA	49347
Grant WA	74698
Kittitas WA	33362
Okanogan WA	39564
Yakima, WA	222581
Total EA169 Population	677674

# AIRPEAK Site Specific, EA 169 40dBu population

EA Population

	<u>Frequency</u>	<u>Callsign</u>	<u>Location</u>	<u>Population</u> <u>40 dbu</u>	<u>Coverage %</u>
1	856.0125	KNBP741	Richland	224,115	<u>33.07%</u>
2	857.0125	KNBP741	Richland	224,115	<u>33.07%</u>
3	858.0125	KNBP741	Richland	224,115	<u>33.07%</u>
4	859.0125	KNBP741	Richland	224,115	<u>33.07%</u>
5	860.0125	KNBP741	Richland	224,115	<u>33.07%</u>
6	856.5125	KNBP741	Richland	224,115	<u>33.07%</u>
7	857.5125	KNBP741	Richland	224,115	<u>33.07%</u>
8	858.5125	KNBP741	Richland	224,115	<u>33.07%</u>
9	859.5125	KNBP741	Richland	224,115	<u>33.07%</u>
10	856.0625	WNPS555	Kennewick	171,550	<u>25.31%</u>
11	857.0625	WNPS555	Kennewick	171,550	<u>25.31%</u>
12	858.0625	WNPS555	Kennewick	171,550	<u>25.31%</u>
13	859.0625	WNPS555	Kennewick	171,550	<u>25.31%</u>
14	860.0625	WNPS555	Kennewick	171,550	<u>25.31%</u>
15	856.1125	WNPS555/WNDR605	Kennewick\Yakima	344,548	<u>50.84%</u>
16	857.1125	WNPS555/WNDR605	Kennewick\Yakima	344,548	<u>50.84%</u>
17	858.1125	WNPS555/WNDR605	Kennewick\Yakima	344,548	<u>50.84%</u>
18	859.1125	WNPS555/WNDR605	Kennewick\Yakima	344,548	<u>50.84%</u>
19	860.1125	WNPS555/WNDR605	Kennewick\Yakima	344,548	<u>50.84%</u>
20	857.0375	WNPS559	Sunnyside	88,371	<u>13.04%</u>
22	858.0375	WNPS559	Sunnyside	88,371	<u>13.04%</u>
22	859.0375	WNPS559	Sunnyside	88,371	<u>13.04%</u>